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KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				TO, TUAN C
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/960,563
Filing Date: September 12, 2001
Appellant(s): PETZOLD ET AL.

Jong H. Lee
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6/18/2010 appealing from the Office action mailed 9/22/2009.

(1) Real Party In Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any other related appeals, interference, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Boards' decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments after Final

The appellant's statement of the status of amendments after final rejection contained in the supplemental brief is correct.

(5) Summary of Claimed Subject Matter

The appellant's statement of the summary of the claimed subject matter is correct.

(6) Ground of Rejection to be reviewed on Appeal

The appellant's statement of the grounds of rejection to be viewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contains in the Appendix to the brief is correct

(8) Evidence Relied Upon

U.S. Patent No. 5,911,773 A Mutsuga et al.

U.S. Patent No. 5,982,298 A Lappenbusch et al.

(9) Grounds of Rejection

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 16-19, 22-25, and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mutsuga et al. (US 5911773A) and in view of Lappenbusch et al. (US 5982298A).

With regard to claim 24 and 25, the U.S. reference to Mutsuga et al. has been cited as teaching a navigation system including a calculation unit which is the central processing unit (4) shown in figure 1(A) of Mutsuga et al, and that processing unit (4) calculates a first route and second route from the starting point to the destination point (Mutsuga et al., figure 2, central processing unit 4; figure 15A). In figure 2, the display (12) is described as a claimed reproducing device for displaying the navigation data including map and routes. As shown in figure 1(A) of Mutsuga et al, the communication unit (5) is provided for receiving the traffic disruption on the first route and second route, and the display device (12) reproduced the traffic disruption such as the congested section shown in figure 15(A). Mutsuga et al. also teach that the traffic disruption such as the traffic congestion on the main road from the point P to the destination (see Mutsuga et al, column 9, lines 61-67; figure 15A).

Mutsuga et al discloses an input device configured to enable the user to input data to manipulate or change the routes that is selected for guiding the user to travel from a starting point to a destination (see figure 16-19).

Mutsuga et al. fails to disclose "enabling the user to mark user-selected road segments on the reproducing device, the manipulated or altered routes including the user-selected road segments being selectable by the user for route guidance"

Lappenbusch et al. discloses an interactive traffic display and trip planner in which the input device which is the cursor control key is used to change at least one selected route by enabling the user mark the selected road (see column 6, lines 14-37).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the navigation system as taught by Mutsuga et al to include the cursor control key as described in the Lappenbusch et al. in order to bring the user attention of the selected road among the other roads on a display device.

With regard to claim 16, the input means (11) shown figure 1(A) of Mutsuga et al. is configured to enable the user to select one of the reproduced route.

With regard to claim 17, Mutsuga et al. teach that the main road (first route) and the general road as a detour route (second route) are reproduced on the display (12) as partially shown in figure 15(A) when the congested section on the main road is determined.

With regard to claim 18, Mutsuga et al. teach that the traffic jam is fixed as the predefined route criteria (Mutsuga et al, column 6, lines 32-53)

With regard to claim 19, the navigation system disclosed by Mutsuga et al. further include an input mean unit (11) for weighting at least one route criteria.

With regard to claim 22, Mutsuga et al. teach that the information regarding traffic disruption includes information regarding traffic congestion (Mutsuga et al., column 6, lines 38-47).

With regard to claim 23, figure 15(A) taught by Mutsuga et al. clearly shows that the traffic disruption is reproduced altogether with the main road which is the first road (claimed first route) and the general road which is the second road (claimed second route). A congested section is specifically indicated on the main road.

With regard to claim 27, the input means (11) shown figure 1(A) of Mutsuga et al. is configured to enable the user to select one of the reproduced route.

Mutsuga et al. further teach that when the congested section of the main road (see Mutsuga et al, figure 15(A)) has been determined, another route (general route) begin to start from a new starting point to the destination.

With regard to claim 28, the communication unit (5) as represented above is configured to receive at least one type of traffic disruption such as traffic jam, and the display (12) is the reproducing device for displaying such the traffic disruption.

With regard to claim 29, the reproduction device is not only but also a speaker (16) as reproducing device for reproducing the acoustical signal to a user (Mutsuga et al., figure 2, speaker 16).

While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

(10) Response to Argument

The appellant argues in the Appeal Brief that neither Mutsuga nor Lappenbusch discloses or suggests “manipulating or changing one of the previously calculated and reproduced first and second routes between the starting point and the destination.” The arguments are not persuasive.

In contrast, the examiner has found the relied portion of Lappenbusch discloses the features as claimed by teaching a user interface that has a road map showing a plurality of road segments that a user can interactively select. In Lappenbusch, the user

can manipulate or change at least one of the reproduced first and second routes (e.g., a shortest route is one of the reproduced route among all possible routes) because: (1) a shortest-time route from a starting location to a destination location is calculated by the user interface and that the shortest route is displayed via its display device, (2) the user is able to mark the road segments of the route by highlighting them using the cursor control keys on a keyboard or a mouse.

The appellant further argues that the relied portion of Lappendbusch is fundamentally unrelated to the claimed limitation which requires manipulating or changing one of the previously calculated and reproduced first and second routes between the starting point and the destination. The arguments are considered but not quite persuasive because using the user interface discussed herein above is quite related with what is now claimed. The user is capable to mark the road segments from the shortest route among all possible routes calculated and displayed (see further column 7, lines 11-40). The user interface has the function of calculating and displaying a shortest route from all possible routes, thus, the user interface has the capability of displaying/reproducing one of the first (e.g. shortest route) and second route (e.g. another route). For that reasons, Lappendbusch discloses "manipulating or changing one of the previously calculated and reproduced first and second routes between the starting point and the destination" as required in the claim.

The primary reference Mutsuga et al. discloses most of the claimed features except for the feature "an input device configured to enable the user to manipulate or change at least one of the reproduced first and second routes by enabling the user to

mark user-selected road segments on the reproducing device, the manipulated or altered routes including the user-selected road segments being selectable by the user for route guidance.” The second reference to Lappendbusch is thus properly combined with Mutsuga et al. for the purpose of bringing the user attention of the selected road among the other roads on a display device.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interference section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (571) 272-6985. The examiner can normally be reached on from 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully submitted,

Conferees:

Tuan C To (Examiner) /TT/

Thomas Black (Appeal Specialist) /T. G. B./

Cuong Nguyen (Primary Examiner) /CHN/

/Tuan C To/

Primary Examiner of Art Unit 3663/3600

August 25, 2010

Thomas G. Black /T. G. B./

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